

# Town of Horicon

## ZONING BOARD OF APPEALS

**Minutes of October 26, 2010**

**Members Present:** Gary Frenz, Priscilla Remington, Cheryl Erickson, Jim Steen, Curt Castner, Alternate: Thad Smith

**Members Absent:** Alternate Dan Smith

**Others Present:** Counsel to Boards Mike Hill, Zoning Administrator Gary McMeekin, Planning Board Member: Matt Simpson,

**Guests Present:** Bill McGhie, Tommy Johansen, Steve and Jim Farrell, Janet and Michael Thomsen, Alice Altieri, Elna Meader.

### **Pledge**

Regular Meeting called to order by Gary Frenz and stated that the Aug minutes can not be voted on. Cheryl Erickson made a motion to accept the September minutes as written, 2<sup>nd</sup> by Jim Steen, All Ayes.

### **NEW BUSINESS:**

**File # 2010-33A Tax Map 37.-1-57 Janet Thomsen** seeking an appeal of the Zoning Administrator's determination for the need of a zoning compliance for a structure and County Building permit for a structure over 144 sq. ft. and compliance with town sanitary codes Section 17.80 and 17.81. Janet Thomsen stated that this parcel is 9.45 acres, and her son built a tree house. Janet Thomsen stated that she purchased a zoning book and did not find anything about tree-houses in the zoning ordinance, however a complaint was filed. Janet Thomsen continued to state that this structure is 300' off the road, a stop work order was placed on the property, there is no foundation, no electricity, no heating system, no living room, den, bedroom, kitchen, bathroom, this is one area with a roof, no concrete and is supported by trees. Janet Thomsen continued on to state that this is a hang out place for hunting. Gary McMeekin stated that a zoning compliance was denied, this is a 12' x 18' structure, the 2<sup>nd</sup> story is enclosed with a loft area and the 1<sup>st</sup> story has a tree in the center. Janet Thomsen stated that she is here to resolve this issue, the structure is supported by trees and could come down in a wind or snow storm, it is not permanent, there would never be a septic system and this is never going to be a dwelling. Priscilla Remington asked the applicant if there would be someone sleeping in this. Janet Thomsen stated that they camp out. Gary McMeekin stated that there is a safety issue and whether a structure is required to obtain a Zoning Compliance Certificate and Warren County Building Permit being that this structure is over 144 square feet. Town of Horicon zoning regulations defines a principal building/structure. Discussion ensued regarding the ability for the board members to visit the property. Gary Frenz stated that the members can not discuss this with the applicant outside of the meetings. Discussion ensued regarding the size and shape of the building and jurisdiction. Cheryl Erickson made a motion to deem the application complete and schedule a public hearing, 2<sup>nd</sup> by Curt Castner. All Ayes.

### **PUBLIC HEARING:**

**File # 20190-28 UV Tax Map 39.13-1-7.1 Leon Cochran** seeking a Use Variance to maintain the bathroom/kitchen facility in boathouse located at 6 Horicon Birches Road Extension. Gary Frenz stated that the applicant's representative Matt Fuller has requested this matter be tabled. Cheryl Erickson made a motion to table this matter, 2<sup>nd</sup> by Jim Steen. All Ayes.

### **PUBLIC HEARING:**

**File # 2010-32 AV Tax Map 55.17-1-23 Byrne, Gerald** seeking a fifty-three foot shoreline setback variance to expand home with a new entry, screen porch and dining room on parcel located at 500 Palisades Road, the applicant is being represented by John MacMillen. The applicant's representative has requested this matter be tabled. Alice Altieri

stated that she is a neighbor two lots away, and does not object to this project. Jim Steen made a motion to table this matter, 2<sup>nd</sup> by Priscilla Remington. All Ayes.

## **PUBLIC HEARING**

**File # 2010-10 AV Tax Map 55.10-1-22 Golden Pond LLC/Farrell** seeking a 45' shoreline setback variance to build a new home on parcel located at 686 Palisades Road. Steve Farrell did a quick summary of the project stating that new site plans and building plans were submitted to the board, the house can not be moved back any further, the total square footage if the home without the basement is 3,694 square feet, deleted the back deck area on the side of the home or 47'6" x 77'8" - total dimensions of home with decks. Gary Frenz asked if anyone else wanted to speak on this project. Priscilla Remington stated that the height of this home would be 39' 2" from the lowest part of grade to the highest part of the structure. Cheryl Erickson made a motion to close the public hearing, 2<sup>nd</sup> by Priscilla Remington. All Ayes.

## **UNFINISHED BUSINESS:**

**File # 2010-10 AV Tax Map 55.10-1-22 Golden Pond LLC/Farrell** seeking a 50' shoreline setback variance to build a new home on parcel located at 686 Palisades Road. Gary Frenz stated that this is 17' further back from the last request. The board reviewed the criteria.

1. The requested variance would not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties. The residential properties in the surrounding area are similar and one neighbor has the same size house. The Town of Horicon Zoning Ordinance does not have any regulations regarding the square footage of homes on a parcel.
2. The Applicant wants to build a 3,694 square-foot house on a .43 acre lot. The applicant has revised the house and plot plans numerous times in order to eliminate the side-yard setback variance requests, by reducing the total square footage of the deck(s) in order to comply. Mr. Farrell made attempts to reconfigure the square footage of the home however slightly, and position the home on the lot in order to make this house fit on the property.
3. The requested 50-foot variance is 50% of the 100-foot setback distance required under the Town Zoning Law. The requested variance is definitely substantial. The structure that now exists is 32 feet from the shoreline and the applicant is making this more conforming placing the new home 17 feet further from the shoreline. The applicant is limited by the size of the lot and the size of the proposed house.
4. The proposed variance would not have a significant adverse effect or impact on the physical and environmental conditions in the neighborhood as a new septic system will be installed, roof drains have been placed around the home and storm water run off have been addressed. These items will be necessary improvements to the property.
5. The Applicant requesting variances is not self created as there is storm damage to the exiting home. The lot is pre-existing and non-conforming, at 0.43 acre/18,731 square feet in a Zoning District with a minimum lot size of 10 acres. The difficulty in this case is due to the Applicant's desire for a much larger home to house a large family, with porches, decks and balcony's and is self created to that extent.
6. This request is the minimum variance necessary to achieve the applicant's goals as the applicant has eliminated the side-yard setback variances and the design is somewhat smaller (115 square feet) than the original request. The board requested the applicant to reduce the square footage of the home to allow the new home to "fit" on the lot without the need for variances. There have been numerous revisions due to the odd shape of the lot and the terrain.

7. The board reviewed the APA criteria and agreed that this is the minimum variance necessary as the home can not be moved back any further without the need for side-yard setback variances, the detriment to nearby landowners has been negated by the installation of a run-off plan and drainage around the home, the applicant could not achieve this without variances, the difficulty arose due to storm damage, this will not have an adverse effect on the shoreline and there are no changes to the shoreline as the shoreline was stabilized with a DEC approved plan previously and the board is not imposing conditions.

Curt Castner made a motion to approve the 50' shoreline setback variance, 2<sup>nd</sup> by Priscilla Remington.  
The board was polled: AYES: Priscilla Remington, Cheryl Erickson, Curt Castner, Jim Steen, Gary Frenz  
NOES: None  
Absent: Dan Smith

**BOARD PRIVILEGE:**

Vouchers were handed out to members to fill out and return ASAP. Priscilla Remington asked if there were classes available. The next class will be held in Saratoga in January 2011. Registration information will be forthcoming.

There being no further business before the board, Chair Gary Frenz adjourned the meeting at 8:30 PM

Respectfully Submitted.  
Christine Smith-Hayes, Secretary